

**REMARKS**

Applicant has carefully reviewed the Office Action of January 3, 2005, and offers the following remarks to accompany the above amendments.

Applicant initially amends the independent claims to delete the reference characters. No new matter is added by this amendment, and the scope of the claims has not changed. Applicant further amends claims 2, 6, 8, 17, 20, and 24-32 to make the claim terminology consistent. No new matter is added.

Applicant further amends the independent claims 1, 14, 19, and 27 to recite that the software adapted to automatically execute on the host computing device in association with a computing session does so independently of a boot state of the host computing device. Support for this amendment can be found in the specification of the application on page 14, line 32-page 15, line 5. In that passage, the application describes that when the key 10 is inserted, the host computing device already has preferences in place that may not match those of the user. As these preferences are already in place, the host computing device must already have been booted. Applicant notes that at other places in the specification, the impending start up of the host computing device is never referenced as being a prerequisite to the insertion of the key. No new matter is added.

Claims 1-11 and 13-32 were rejected under 35 U.S.C. § 102(b) as being anticipated by Paul. Applicant respectfully traverses. For the Patent Office to establish anticipation, the Patent Office must show where each and every element of the claim is found in the reference. Further, the elements of the reference must be arranged as claimed. MPEP § 2131.

As amended, the claims recite that the software executes automatically independently of the boot state of the host computing device. In contrast, Paul is directed to the booting of the host computing device. For example at col. 1, lines 61-64, Paul states "a device that would enable a computer to *boot up with the computer configured in accordance with the user system's configuration preferences would be desirable.*" (emphasis added). Likewise, at col. 3, lines 8-12, Paul states "the user may use his/her configuration card 18 in one or more of these audiovisual devices 10 to enable them and to have them *boot up* with the user's configuration preferences." (emphasis added). Also, at col. 3, lines 30-35, Paul states "the processor 24 may have stored boot-up instructions that causes the processor 25 to read on its I/O bus the instructions governing system configuration and to execute the instructions governing system

configuration as part of the start up of the system prior to accepting normal/other user input." Furthermore, at col. 4, lines 9-11, Paul states "the computer instructions relate to booting up the processor and configuring the user environment." This point is re-emphasized at col. 4, line 20-col. 5, line 5, in the section entitled "Rudimentary Control Software".

Applicant has studied Paul and finds no teaching that the software on his configuration card 18 acts at any other time than the boot up of the host computing device. Since the independent claims recite this element, and Paul does not show this element, the claims are not anticipated by Paul. Applicant requests withdrawal of the § 102(b) rejection of claims 1-11 and 13-32 at this time.

Claim 12 was rejected under 35 U.S.C. § 103 as being unpatentable over Paul in view of the Scan Tech News article (hereinafter "Scan"). Applicant respectfully traverses. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every element of the claim is taught or suggested. MPEP § 2143.03.

As amended, claim 1, from which claim 12 depends, recites that the software functions independently of the boot state of the host computing device. As explained above, Paul does not teach or suggest this element. Nothing in Scan cures the deficiencies of Paul. Since the references individually do not teach or suggest the claim element, the combination of references cannot teach or suggest the claim element. Since the combination of references does not teach or suggest the claim element, the Patent Office has not established obviousness for claim 12. Applicant requests withdrawal of the § 103 rejection of claim 12 at this time.

Applicant requests reconsideration of the rejections in light of the amendments and remarks presented herein. The references of record do not teach or suggest the software automatically executing on the host computing device independent of the boot state of the host computing device as recited in the claims. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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Date: March 22, 2005  
Attorney Docket: 4989-008

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